PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Docket No: A8504
James L. KEESEY, et al.	
Appln. No.: 09/690,313	Group Art Unit: 2626
Confirmation No.: 3435	Examiner: Qi HAN

Filed: October 17, 2000

For: A TECHNIQUE FOR PROVIDING CONTINUOUS SPEECH RECOGNITION AS AN ALTERNATE INPUT DEVICE TO LIMITED PROCESSING POWER DEVICES

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated June 14, 2010. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

Claims 1-3, 5-16, 18-29 and 31-40 are all the claims pending in the application. Claims 4, 17, and 30 have been canceled. Each of claims 1-3, 5-16, 18-29, and 31-40 stand finally rejected and are the subject of this appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I. Claims 1-3, 5-16, 18-29 and 31-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hedin in view of King and further in view of D'Hoore (US 6,085,160)

ARGUMENT

In addition to the arguments set forth in the Appeal Brief as filed on May 17, 2010, Appellant responds herein to certain points made in the Examiner's Answer of June 14, 2010 as follows:

As noted in the Appeal Brief, Appellant submitted that in the Decision on Appeal dated July 27, 2006, the Board agreed with Appellants that King and Aldemir do not teach or suggest "determining whether to filter the translated text; and if it is determined that the translated text is to be filtered, applying a filter to the translated text," as recited in independent claim 1 and analogously recited in independent claims 14 and 27. The Board also indicated that the Examiner's conclusion that King's teaching of converting symbolic data files (text) to a data format that may be optimally transported on a wireless network, and a text file that may be reformatted so as to be more compatible with a requesting mobile device (suggesting filtering out incompatible text), allegedly corresponds to a filtering function, was not well founded.[1]

In the Appeal Brief, Appellant argued that, similar to King, Hedin does not teach or suggest making any kind of determination whether the translated text of voice data should be filtered and then applying the filter if the determination is made that it should be filtered.

In response, the Examiner asserts:

> It is noted that, Hedin clearly teaches that 'the spoken text…be recognized and converted (i.e. translated) to text (i.e. translated text)…by the ASR(automatic speech recognition) in the gateway/proxy part 107' (col. 6, lines 6-8), 'when (if)

[1] The Decision on Appeal dated July 27, 2006, at pages 4-5.

> the data formats are different (so as to determine applying filter, i.e. format conversion), one function (filter function) of the gateway/proxy part 107 is to convert (filter) the data from one format to the other'.[2]

However, if any "determining" is done by Hedin, it may be to determine if data formats are different (see column 5, lines 43-45). If the formats are different, then a conversion process converts the data from one format to another. A filtering process may then weed out data that cannot be received from a terminal. The [determining] when data formats are different, as taught by Hedin, is used to convert data from a first markup language to a different markup language, depending on which markup language can be supported by a terminal's low processing power (see column 4, lines 56-65). Hedin does not determine whether the **translated text** of voice data should be filtered and then apply the filter if a determination is made that it should be filtered, as claimed.

The claimed "translation," and the claimed "filtering" does not correspond to the "converting" and the "filtering" as taught by Hedin. The claimed "translation" translates voice data to text (see for example, page 6, lines 6-8 of the specification), while the "converting," as taught by Hedin, converts data from a first markup language to a second markup language. Further, the claimed "filtering," as claimed, is used to extract keywords from the translated text of the voice data in order to apply a filter which formats the translated text to a particular application (see for example, page 6, lines 9-21 of the specification). On the other hand, the "filtering" as taught by Hedin, is used to prevent certain words from being received by a terminal. The objective of Hedin, with regard to "converting and filtering" is completely

[2] The Examiner's Answer, at page 11.

different from the objective of the claimed translating and the claimed filtering, thus severely undermining the Examiner's position that the filtering as disclosed on page 6, lines 16-20 of the specification as filed allegedly corresponds to the conversion as taught by Hedin.

In the Appeal Brief, Appellant further argued that the Examiner failed to articulate a credible motivation to modify Hedin based on the teachings of King and D'hoore. Appellant submitted that since Hedin generally relates to voice-enabled devices, and the voice-enabled control of computer applications, there is no need to send or transmit translated text to the client terminal of Hedin, and in fact, Hedin teaches away from King (which the Examiner asserts teaches converting voice data into a symbolic data file and sending the symbolic data file to an originating mobile device), since Hedin teaches that audio data may be sent to the client and played for the user so that the user may hear the possible selections rather than having to view them on the screen (see column 5, line 66 to column 6, line 4 of Hedin).

In response, the Examiner asserts:

> [A]pplicant failed to treat the prior art disclosure of Hedin **as a whole**, since the applicant's arguments only recite the portion of the Hedin's teachings regarding sending back **audio** data and concluded that "Hedin appears to teach away from King…However, in fact, Hedin also teaches that 'the TA 203 and TAP 201 embody the client part 101 (i.e. terminal device)' (col. 6, line 19-22), provides examples that 'the TAP send the unrecognized 'phrase' or 'TP-commands' to 'RAP's (remote side) ASR307' and then 'a list of recognizable TP commands', or recognized 'phrase'/'command' (such 'CALL JOHN'), or portion of recognized TP-command (such word "CALL') **can be sent back to** the TAP 203…which clearly shows that Hedin does not teach away from King at all.[2] (emphasis included)

[2] The Examiner's Answer, at page 14.

Appellant respectfully disagrees with the Examiner and submits that the Examiner's position is based on a misunderstanding or misinterpretation of the teachings of Hedin.

Although not clear, the Examiner appears to assert that the claimed "text" allegedly corresponds to the term "phrase" as taught by Hedin. However, contrary to the Examiner's assertion, Hedin's "phrase" does not refer to text, but to a spoken phrase (thus audio). Hedin teaches that a remote application part's (RAP) automatic speech recognition system (ASR) may have the capability to recognize continuous speech, which may be useful if the user of the terminal is supposed to say a single word but instead says a phrase. If the terminal expects the user to voice single word commands (for instance, "Call" (pause) "John"), but instead, the user says "Call John," with no pauses between the words, the terminal may interpret the phrase as a single word "Calljohn"). If a terminal application part's ASR does not recognize the word "calljohn", it converts it into MIME-formatted **audio** encoded data and sends it to the RAP, which uses its more powerful ASR to recognize the "word."

Accordingly, quite contrary to the Examiner's assertion, Hedin does not teach or suggest sending text to a user terminal, but clearly teaches transmitting audio to a terminal apparatus, and using the audio to control service applications of the terminal apparatus, thus clearly teaching away from the claimed invention. Regardless of how broadly the Examiner interprets the claimed invention, one of ordinary skill in the art would certainly understand that voice or audio cannot correspond to text.

Accordingly, from all of the above, Appellant respectfully maintains that a *prima facie* case of obviousness has not been established by the Examiner.

In the Appeal Brief, Appellant further submitted that there is no teaching or suggestion in the cited references that "the voice data is translated to text using a voice print" and "the voice print is retrieved from a datastore based on the device identifier," as recited in claim 14 and analogously recited in independent claims 1 and 27.

The Examiner acknowledges that Hedin and King do not teach or suggest the above-quoted features of the claims, and thus relied on D'hoore to allegedly remedy this deficiency. However, Appellant submitted that D'hoore has no relevance to the claimed invention, since D'hoore appears to use the voice prints in order to obtain the proper enunciations or pronunciations of the words in the specific language of the user, and tries to find the best possible phonetic representation for a particular word based on a few utterances of that word by the user, and certainly does not use the voice print to translate voice data to text as claimed.

In response, the Examiner opines:

> It is noted that D'hoore teaches speech recognition including language model, acoustic model phoneme database and speech database…and using voice print for speech recognition, which can be used to improve or modify the speech recognition system disclosed by Hedin in view of King.[4]

However, the Examiner does not articulate with any specificity how or why (if at all possible) this supposed improvement would take place. Conjecture and possibilities do not support prior art rejections. In re Robertson, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999). The voice print as taught by D'hoore is not used to translate voice data to text, as claimed, but is used to determine the nationality or native language of the speaker.

[4] The Examiner's Answer at page 15.

The fact that D'hoore teaches a speech recognition system certainly is not indicative, or does not imply, that its voice print is used for the same purpose as the claimed invention. Specifically, according to an exemplary embodiment of the present invention, the voice print pertains to a specific user of the terminal, and is used to identify a specific user of a terminal device based on the pauses and intonations of the user (see for example, page 5, lines 12-22 of the specification). This differs from the teachings of D'hoore which uses voice prints to create models representative of the language or nationality (for example, German, French, or Spanish) of speaker, and uses the models to determine the native language of a particular speaker (see column 4, lines 42-62 and column 7, lines 32-55). D'hoore does not use the voice prints to determine the identity of a specific individual, but relates to identifying individuals who speak a certain language.

In the Appeal Brief, Appellant noted that the Examiner appeared to acknowledge that D'hoore does not teach or suggest "the voice print is retrieved from a datastore based on the device identifier", as claimed, since the Examiner asserted that "HEDIN discloses that 'in a multi-user environment, each user's profile must be stored (datastore)'…and using WAP URL (device identifier)[5]. However, since the Examiner previously conceded that Hedin does not teach or suggest "the voice print is retrieved from a datastore based on the device identifier,"[6] the Examiner's contradictory position was unclear.

[5] The final Office Action at page 6, lines 14-16.

[6] The final Office Action at page 6, lines 5-7.

In response, the Examiner now asserts that the feature, "the voice print is retrieved from a datastore based on the device identifier" is allegedly:

> based on the teachings of the combined references, so that the applicant's arguments…against the references individually are not proper, since one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208…[2]

First, Appellant respectfully submits that the Examiner's reliance on *In re Keller* is misplaced. It appears that the Examiner is misusing the quote from *In re Keller*. That is, the facts presented in *In re Keller* clearly do not apply to Appellants arguments. In *In re Keller* the appellant provided an affidavit that was only concerned with whether one of the applied references suggested the use of a digital timing in a cardiac pacer. That is, the Appellant (in *In re Keller*) only argued against **one** of the references, but did not provide any evidence that the other two references used in the 103(a) rejection did not teach or suggest digital timing in a cardiac pacer. The court stated that "the test is not whether a suggestion to use digital timing in a cardiac pacer is round in Walsh (which was the test applied by Dr. Cywinski), but rather what Keller in view of Walsh and what Berkovits in view of Walsh would have suggested to one of ordinary skill in the art". Thus, in *In re Keller* the Appellant only attacked one of the applied references, which is in stark contrast to the remarks Appellant provided in the Appeal Brief, where Appellant discussed all of the references (Hedin, King and D'hoore), and the reasons why the secondary references do not cure the deficiencies of the primary reference.

[2] The Examiner's Answer at page 17.

In this case, the combined teachings of the references - Hedin, King, and D'hoore - would not have suggested the claimed invention to one of ordinary skill in the art, since Hedin, King, and D'hoore teach completely diverse subject matter. Hedin relates to the voice activated control of applications, while King relates to translation of voice to symbolic data files and D'hoore relates to the creation of acoustic models which may be used to recognize the native lauguage of a speaker. The references are directed to completely different objects, such that there is no reason to combine their teachings in view of each other.

The Examiner now appears to take the position that since, in Hedin, audio data is sent back to a user terminal, this implies "sending data with the requiring device identifier, otherwise, the data cannot be sent back to the client device, so that the client/device identifier for either receiving data or transmitting data was known.".[8] The Examiner continues to base the rejection on personal opinions, and feebly attempt to read subject matter into the cited references that is simply not taught nor suggested by the references.

Appellant respectfully submits that there is simply no teaching or suggestion in any of the cited references that "the voice print is retrieved from a datastore based on the device identifier," as claimed.

For all of the foregoing reasons, Appellant submits that the rejections of the claims on appeal are improper, and reversal of each ground of rejection is requested.

[8] The Examiner's Answer at pages 17-18.

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal.

An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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